

REMARKS/ARGUMENTS

Claims 1 and 13-20 are pending in the application. Claims 1, 13-15, 19 and 20 are previously presented. Claims 2-12 and 16-18 are canceled.

Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 2,776,447 to Addicks in view of USPN 2,890,480 to Gregg et al. Addicks discloses a spring balance assembly comprising;

a window frame; a window sash movably mounted in the window frame, a torsion spring (1) having a first end (near 11) and a second end (near 2), a spiral rod (12) within the torsion spring having a third end (near 16) near the first end, a fourth end (near 2) near the second end, and a first axis through the third end and the fourth end, a thread follower (6/11) mounted on the spiral rod for being rotated by the spiral rod when the follower is moved along the spiral rod between the third end and a fourth end of the spiral rod, the threaded follower being attached to the first end of the torsion spring for being moved by the torsion spring axially with respect to the window frame between the third end and the fourth end of the spiral rod and for rotating the first end of the torsion spring by rotation of the follower, a first means (2/3) for attaching the second end of the torsion spring to a window sash for axial movement of the torsion spring by the sash for moving the follower along the spiral rod by moving the sash, a mounting assembly (13/14) fixedly mounted on the window frame, attached to the third end of the spiral rod preventing axial movement of the rod relative to the window frame.

However, Addicks fails to disclose a gear assembly comprising a first gear and a second gear mounted on a bearing frame fixedly mounted on the window frame as claimed. Gregg et al. teaches a sash balance assembly including a first gear (4) and a second gear (7) mounted on a bearing frame (71) fixedly mounted on the window frame, the first gear attached to a third end of

a spiral rod (21) preventing axial movement of the spiral rod with respect to the window frame and for rotating the spiral rod by the first gear when driven by the second gear for changing base force in the torsion spring. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the sash balance assembly of Addicks to incorporate the gear assembly as taught by Gregg et al to provide an adjustable spring balance assembly providing adjustment to the tension in the spring for size and weight of the sash to be achieved.

As to claim 17, Gregg et al. further teaches a keyed hole (8) in the second gear, an insert (screwdriver bit) in the keyed hole, keyed to the hole so the insert rotates the second gear when the insert is rotated. A means (6) for urging the insert from a first position (4 and 7 engaged, with 6 compressed) on the second gear to a second position (4 and 7 disengaged, with 6 extended) on the second gear, means (10) on the bearing frame contacting the insert (contact through the second gear) for preventing rotation of the insert when the insert is in the second position.

Regarding applicant's recitation in claim 18 stating "said threaded follower being attached to the first end of said torsion spring **for being moved by the torsion spring axially with respect to the window frame**"; it has been held that a recitation (the intended use phrase in bold text) of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patently distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 459, 458 (CCPA 1963). Therefore, since Addicks in view of Greg includes the structure (threaded follower) corresponding to applicant's structure (threaded follower) and Addicks in view of Gregg et al. includes a threaded follower, which is capable of performing the intended use, then claim 18 is anticipated.

Claims 16-18 are canceled and the rejection no longer applies to them.

Claims 1, 13-15, 19 and 20 are allowed.

Applicant believes that the application is now in condition for allowance. No fee is seen due for additional claims. The formal drawings filed December 19, 2001 are accepted.

Applicant respectfully requests an early notice of allowance so that the issue fee can be paid and the application be sent to issue soon.

Respectfully submitted,

 April 12, 2005
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